



April 1, 2010

Co-Chair, Joint Committee on Audit
Committee on Financial Institutions
Chair, Partnership for a Stronger Economy
Committee on Jobs, the Economy & Small Business

Assembly Committee on Criminal Justice

Assembly Bill 896

Representative Peter Barca

Chairman Turner and members of the Assembly Committee on Criminal Justice, thank you for holding a public hearing on Assembly Bill 896, which will require the collection of a DNA sample immediately after sentencing while the convicted person is still in custody.

As you know, under current law anyone convicted of a felony must submit a DNA sample to be filed in the statewide database. However, in the wake of the arrest of suspected serial murderer Walter Ellis in Milwaukee, the Department of Justice found that samples for as many as 12,000 felons were missing from the state system.

I was shocked to learn about the missing DNA samples. The DNA database is an essential law enforcement tool in this day and age. We owe it to crime victims and all of our citizens to ensure that this system works properly. Senator Spencer Coggs and others shared my concern and we worked to develop the proposal that is before the committee today.

DNA is currently collected by several different agencies at various levels of government without a uniform process or timeline. This bill would require the collection of DNA immediately after sentencing.

An important aspect of this legislation is that in creating a single, standardized method for collecting all DNA samples, we will close the loophole found in current law which under certain circumstances allows some felons to walk out the front door without submitting a DNA sample.

Currently, a felon who receives a stayed sentence, is released for time previously served, or is released to the supervision of a probation officer is not required to provide a sample before leaving the courthouse. While under the current process the probation officer instructs the felon that they are required to submit a sample, it is up to the felon to appear and submit the sample to the authorities. This bill would require as a condition of release that the felon be temporarily placed in the custody of the sheriff to immediately submit a DNA sample.

DNA evidence is critical in investigating and solving some of the most serious crimes on the books. We must make every effort to ensure that this information is obtained, documented, and managed properly. I believe a single, streamlined process for DNA collection is the best way to eliminate future errors in coordination and communication, and attempts to prevent a situation such as the Walter Ellis case from ever happening again.

Thank you for your time today and I hope that we can count on your support on Assembly Bill 896 comes for a vote before this committee.



ANTHONY J. STASKUNAS

STATE REPRESENTATIVE • 15th ASSEMBLY DISTRICT

SPEAKER PRO TEMPORE

Assembly Bill 893

April 1, 2010

Assembly Committee on Criminal Justice

Chairman Turner and fellow members of the Assembly Committee on Criminal Justice, I am the Assembly author of AB 893, relating to submission of biological specimens for DNA. This issue was brought to my attention by the Attorney General.

Assembly Bill 893 will make changes and clarifications to our state statutes relating to collecting DNA from convicted offenders. This proposal is intended to facilitate additional compliance with our existing law to have DNA from all individuals convicted of felonies in Wisconsin.

As you know, DNA is a valuable law enforcement tool. DNA analysis can lead to the identification and successful prosecution of offenders – even in cases that otherwise had been without leads. It is important to note that DNA evidence can also lead to exoneration of innocent individuals.

Assembly Bill 893 will strengthen our state's DNA collection law in several ways through the following changes:

- Create an overlap of "status offenders" with all instances where a court is statutorily mandated to require a convicted offender to submit a specimen.
- Create a special proceeding - not a criminal proceeding – to obtain an order from the court that allows law enforcement to compel the submission of a biological sample from individuals who are no longer in custody.
- Close the loophole regarding convictions for failure to provide a sample.
- Close the loophole regarding not guilty by reason of mental disease or defect.
- Create a mechanism allowing the state to request a second sample from an individual.
- Clarify that the requirement for giving a DNA sample does not expire when the person completes serving their sentence.

OFFICE: P.O. BOX 8953 • MADISON, WI 53708 • (608) 266-0620 • rep.staskunas@legis.wi.gov

HOME: 2010 SOUTH 103RD COURT • WEST ALLIS, WI 53227 • (414) 541-9440

TOLL-FREE: (888) 534-0015 • FAX: (608) 282-3615

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Assembly Bill 893 primarily closes loopholes and provides for additional options for collection of DNA samples.

As you may recall in September of last year during a murder investigation it was revealed that there was a hole in our state's DNA databank. This came to light after the arrest of Walter Ellis who is accused of killing seven women over a 21 year period.

Beginning January 1, 2000 all felons were required to provide DNA samples. In 2001 Walter Ellis was ordered to give a DNA sample. However, another inmate posed as Ellis and gave a DNA sample on his behalf. At that time, according to State Crime Lab records there were at least eight homicide victims with Ellis's DNA on them, providing him with a great incentive not to take that test.

As a result of this deception by Ellis, the investigation into these murders was significantly undermined for several years. Ellis is alleged to have committed at least one more murder in 2007 after his release from prison.

Assembly Bill 893 will address closing the loopholes that have contributed to our current situation of missing DNA for nearly 13,000 offenders. Enactment of AB 893 should result in the collection of DNA from each and every person required to provide the evidence under current law.

Mr. Chairman and members, thank you for your kind attention today. I would be happy to answer any questions you may have.